**SCHEDULED FOR ORAL ARGUMENT OCTOBER 14, 2026**

**IN THE UNITED STATES COURT OF APPEALS**
**FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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| ENVIRONMENTAL DEFENSE FUND, *et al.*,<br><br>*Petitioners*,<br><br>v.<br><br>LEE ZELDIN, Administrator, U.S. ENVIRONMENTAL PROTECTION AGENCY, and U.S. ENVIRONMENTAL PROTECTION AGENCY,<br><br>*Respondents.* | Case No. 25-1275 |

On Petition for Review of Final Action of the
United States Environmental Protection Agency

# INDUSTRY INTERVENORS' BRIEF

Paul M. Seby
Christopher L. Bell
Matthew K. Tieslau
Greenberg Traurig, LLP
1144 15th Street, Suite 3300
Denver, CO 80202
Telephone: (303) 572-6584
Fax: (303) 572-6540
sebyp@gtlaw.com
bellc@gtlaw.com
tieslaum@gtlaw.com

*Counsel for Domestic Energy Producers Alliance*

Allison D. Wood
Makram B. Jaber
Andrew D. Knudsen
MCGUIRE WOODS LLP
888 16th Street, NW, Suite 500
Washington, DC 20006
Phone: 202-857-1700
Email: awood@mcguirewoods.com
mjaber@mcguirewoods.com
aknudsen@mcguirewoods.com

*Counsel for Interstate Natural Gas Association of America*

Additional counsel are listed on the signature block.

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## INTRODUCTION

Petitioners challenge EPA's final rule entitled *Oil and Natural Gas Sector Climate Review: Extension of Deadlines in Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources*, 90 Fed. Reg. 55671 (Dec. 3, 2025) (the "Final Extensions Rule"). The Final Extensions Rule extended compliance deadlines for eight narrow requirements – among hundreds of requirements – adopted in 2024 under Section 111 of the Clean Air Act (CAA), 42 U.S.C. § 7411 (New Source Performance Standards, or NSPS), for affected facilities in the oil and natural gas sector. *See Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review,* 89 Fed. Reg. 16820 (Mar. 8, 2024) ("2024 Rule"). EPA based each extension on individualized findings that compliance with the original deadlines was infeasible due to circumstances not anticipated in the 2024 Rule, and that leaving the original deadlines in place threatened widespread non-compliance and disruption.

Petitioners' arguments that the Final Extensions Rule should be vacated because EPA failed to consider the possible emissions consequences of the rule are unavailing. *First*, Petitioners claim that Section 111 expressly requires EPA to consider emissions whenever it extends a compliance deadline. But Section 111 contains no such express requirement. *Second*, Petitioners claim that EPA failed to

consider the possible emissions consequences of the Final Extensions Rule, rendering the rule arbitrary and capricious. But EPA did, in fact, consider the possible emissions consequences of its action, finding that most of the revised deadlines had no ascertainable emissions consequences and that, for the other extensions, the need to reset infeasible compliance deadlines outweighed any deferred emissions reductions resulting from the deadline extensions.[1]

In short, EPA made particularized findings that deadline extensions are needed and warranted for eight of the hundreds of deadlines set forth in the 2024 Rule. EPA considered all relevant aspects of the problem – including the possible emissions consequences (via foregone reductions attributable to the 2024 Rule) – and had ample record-based evidence to support its respective decisions. Accordingly, the petition for review should be dismissed.

## STATEMENT OF THE CASE

### I. Statutory Background

Section 111 of the Clean Air Act directs EPA to list source categories and to promulgate nationally applicable "standards of performance" for new sources within these categories. 42 U.S.C. § 7411(b)(1). These standards must "reflect the degree

[1] To avoid duplication, this brief addresses Petitioners' arguments regarding EPA's consideration of the possible emissions consequences of the Final Extensions Rule. Industry Intervenors join and support EPA's response demonstrating that the Agency provided a reasoned basis for each extension at issue. *See* EPA Br. at 29–44.

of emissions limitation achievable through the application of the "best system of emission reduction" that EPA "determines has been adequately demonstrated," taking into account costs, nonair health and environmental impacts, and energy requirements. *Id.* § 7411(a)(1).

In limited circumstances, promulgation of standards for new sources in a category triggers an obligation for EPA to call upon States to submit plans containing State-established standards of performance for the same pollutant from existing sources within the same category. *Id.* § 7411(d)(1). EPA generally discharges this obligation by issuing "emission guidelines," which are regulations that set forth the requirements for such plans.

## II. Regulatory Background

This case involves performance standards and emissions guidelines for methane and volatile organic compound (VOC) emissions from sources in the oil and natural gas sector. As explained below, the final rule at issue does not set or revise these standards and guidelines. The rule extends compliance deadlines for nine narrow requirements – among hundreds of requirements – adopted in 2024 for new sources and for states to submit plans for existing sources.[2]

[2] The final rule extended nine deadlines/requirements – eight that directly impact sources and a ninth for states to submit plans for existing sources. Industry Intervenors' Brief focuses on the eight extensions impacting source.

### A. The 2024 Rule

On March 8, 2024, EPA promulgated a final rule setting forth new-source performance standards for methane and VOCs (Subpart OOOOb), and emissions guidelines for methane (Subpart OOOOc) for "affected facilities" in the oil and gas industry. 89 Fed. Reg. at 16820. The 2024 Rule set compliance deadlines for the new Subpart OOOOb standards ranging from May 7, 2024 to May 7, 2025, and required states to submit plans for implementing the Subpart OOOOc guidelines by March 9, 2026.[3]

### B. The Interim Final Rule

On July 31, 2025, EPA promulgated an interim final rule extending the compliance deadlines for seven of the hundreds of individual compliance obligations set forth in the 2024 Rule's Subpart OOOOb new source standards (the "Interim Final Rule"). *See* 90 Fed. Reg. at 35966. EPA explained that those deadlines, as originally promulgated, were "untenable" and posed "immediate problems related to compliance" for regulated entities that were "not anticipated" in the 2024 Rule. *Id.* at 35969.

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[3] Because the Industry Intervenors are not directly subject to the Subpart OOOOc requirement, and because each of the deadline extensions is "functionally independent" and severable from the others, 90 Fed. Reg. 35966, 35969 (July 31, 2025); 90 Fed. Reg. at 55674; *see MD/DC/DE Broad. Ass'n v. FCC*, 236 F.3d 13, 22 (D.C. Cir. 2001), Industry Intervenors do not address Petitioners' arguments relating to the Subpart OOOOc extension. However, Industry Intervenors support EPA's extension of this deadline as well.

Relying on information provided to the Agency after promulgation of the 2024 Rule, both in petitions for reconsideration and in communications with stakeholders, EPA justified each extension based on individualized findings as to why requiring compliance with the original deadlines was infeasible and would risk widespread noncompliance or operational disruption. These findings included: (1) supply-chain and capacity constraints for control devices, *id.* at 35971–72; (2) workability concerns and the risk of widespread noncompliance under the 2024 Rule's compliance schedule for cover and closed vent systems, *id.* at 35972–73; (3) regulatory ambiguity coupled with planning and equipment-procurement constraints for valve equipment leaks, *id.* at 35973; (4) supply chain constraints and delivery delays for critical components, and regulatory ambiguity relating to the standard's scope of coverage, for process-controllers, *id.* at 35973–74; (5) "a degree of vagueness" in the 2024 Rule provisions, resulting in far more sources triggering modification and becoming subject to the OOOOb standard and necessitating facility-level operational adjustments for storage vessels, *id.* at 35974–76; (6) unanticipated administrative and procedural obstacles for the Super Emitter Program, *id.* at 35976; and (7) logistical limitations related to fuel supply and alarm communications infrastructure for flare pilot flame and alarm requirements, *id.* at 35976–77.

EPA prepared an Economic Impact Analysis ("EIA") for the Interim Final Rule, which addressed the potential emissions consequences of the extensions, including "disbenefits associated with additional emissions and lost value of captured natural gas" due to the extension of OOOOb and OOOOc deadlines. *Id*. at 35980 (citing *Economic Impact Analysis for the Extension of Deadlines in the NSPS OOOOb and EG OOOOc,* EPA-HQ-OAR-2025-0162 (July 23, 2025) ("Interim Final Rule EIA")). As to Subpart OOOOb, EPA determined that the extensions were "not expected to result in any material impact on compliance costs and emissions" and were either "very small" or unquantifiable due to insufficient data. *See* JA0783-0784[Interim Final Rule EIA 1–2].

Although EPA promulgated the Interim Final Rule under the "good cause" provision of the Administrative Procedure Act, 5 U.S.C. § 553(b)(B), EPA also sought in that rulemaking public comment on the extensions, while noting that it was not reconsidering in that proceeding any provisions of the 2024 Rule "other than the specific changes" addressed in the Interim Final Rule. 90 Fed. Reg. at 35980.

### C. The Final Extensions Rule

On December 3, 2025, following the comment period, EPA issued the final rule at issue here. *See* 90 Fed. Reg. at 55671.[4] The Final Extensions Rule

[4] In light of the Agency's promulgation of the Final Extensions Rule after notice and comment, this Court dismissed the Petitions for Review of the Interim Final Rule as moot. Doc. No. 2161664.

"reaffirm[ed]" each extension in the Interim Final Rule and set forth two additional narrow extensions. *Id.* at 55674. Relying on the information underlying the Interim Final Rule as well as additional information submitted in comments, and after considering public comments, EPA again explained why immediate compliance would be infeasible for each relevant standard. *See id.* at 55675–76 (control devices); *id.* at 55676 (cover and closed vent systems); *id.* at 55676–77 (equipment leaks); *id.* at 55677 (process controllers); *id.* at 55677–78 (storage vessels); *id.* at 55678 (super emitter program); *id.* at 55678–79 (flare pilot flame and alarm requirements). Based on comments received, the Final Extensions Rule further extended the compliance deadline for net heating value (NHV) monitoring for control devices to allow time for sources to resolve continued logistical and practical challenges. *See id.* at 55675–76. EPA also provided additional time for initial annual reporting under Subpart OOOOb. *See id.* at 55679–80. Acknowledging "significant confusion with respect to the initial annual report deadline in the 2024 final rule," and in light of EPA regional offices having already granted annual reporting extensions for similar reasons, EPA determined that extending the deadline for all affected sources "is a more efficient and equitable approach than dealing with this issue on a one-off submission basis." *Id.* at 55679.

The Final Extensions Rule also reaffirmed two other aspects of the Interim Final Rule. First, EPA "reaffirm[ed]" the Interim Final Rule EIA, explaining that the

Final Extensions Rule also had "minimal economic impacts relative to those of the 2025 [Interim Final Rule]." *Id.* at 55674; *see* JA1973-1974, *Affirmation of Economic Impact Analysis for the Interim Final Rule*, EPA-HQ-OAR-2025-0162-0672 (Oct. 31, 2025). Second, EPA reaffirmed that "each new regulatory change in this final rule is severable from the other regulatory changes in this final rule and from the conclusions and reaffirmations of the changes in the 2025 [Interim Final Rule]." 90 Fed. Reg. at 55674.

EPA considered the possible emissions consequences of the compliance schedule extensions in the Final Extensions Rule, and found the extensions were warranted. 90 Fed. Reg. at 55675. EPA expanded on its reasoning in its response to public comments. *Oil and Natural Gas Sector Climate Review: Extension of Deadlines in NSPS and EG Response to Public Comments on the July 31 2025 IFR*, at 13, EPA-HQ-OAR-2025-0162-0673 (Dec. 3, 2025) ("RTC"). JA1975-2043[RTC]. In the RTC, EPA stated that the "emissions impacts of the 2025 [Interim Final Rule] were considered and the EPA determined that the extensions were warranted given those impacts" because the "2024 Final Rule contained provisions that [reconsideration] petitioners credibly asserted could not be complied with on the timeline required by the rule. JA1978[RTC 13]; *see also* 90 Fed. Reg. at 35972 (EPA concluding the deadline extensions "do not interfere with, or unreasonably frustrate, the ultimate emission reduction requirements").

EPA also directly addressed and rejected comments claiming that the Final Extensions Rule would cause "forgone emissions benefits resulting from the extensions" that were not justified by the feasibility issues industry faced. 90 Fed. Reg. at 55675. In doing so, EPA made clear that it had relied upon the prior Regulatory Impact Analysis ("2024 RIA")[5] conducted for the 2024 Rule to inform the impact analysis of the Final Extensions Rule. JA2008[RTC 34].

Petitioners challenged the Final Extensions Rule and moved for summary vacatur. This Court denied Petitioners' motion for summary vacatur and ordered that the case proceed to merits briefing. Doc. No. 2161664.

## SUMMARY OF ARGUMENT

This Court should reject Petitioners' argument that EPA purportedly failed to consider the possible emissions consequences of extending eight compliance deadlines in the 2024 Rule. Petitioners' core argument, that Section 111 explicitly requires EPA to consider emissions when amending Section 111 deadlines, fails because Section 111 contains no such express requirement. Petitioners' reliance on *American Lung Association v. EPA*, 985 F.3d 914 (D.C. Cir. 2021), *rev'd on other grounds sub nom. West Virginia v. EPA*, 597 U.S. 697 (2022), fares no better. Unlike

[5] *See Regulatory Impact Analysis of the Supplemental Proposal for the Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review*, EPA-HQ-OAR-2021-0317-4021, JA1487-1764[2024 RIA].

the sweeping changes affecting every Section 111(d) standard that EPA promulgates in the future across all source categories in *American Lung*, the Final Extensions Rule extends only eight Subpart OOOOb compliance deadlines out of hundreds in the 2024 Rule. Moreover, EPA demonstrated a need for the extensions – the original deadlines were infeasible due to unanticipated, exogenous factors. And EPA did not ignore the possible emissions consequences of the extensions. The Agency considered them and found them "immaterial."

Specifically, EPA considered the possible emissions consequences in the Interim Final Rule and did the same in the Final Extensions Rule. EPA also made clear that, in formulating the Final Extensions Rule, it relied on the analysis of possible emissions consequences set forth in the 2024 RIA created for the 2024 Rule. EPA also responded to comments concerning the emissions implications of individual extensions – and found that no commenters had provided sufficient information to change its conclusion from the Interim Final Rule that the extensions were necessary. The record demonstrates that EPA considered the possible emissions consequences of each compliance schedule extension, found them very small or not meaningfully quantifiable, and concluded that the extensions were warranted given those impacts.

Furthermore, the infeasible original deadlines would have forced owners and operators to make the difficult decision of ceasing operations or operating out of

compliance with the corresponding regulatory requirements. Widespread noncompliance with the original infeasible compliance deadlines could have deferred any emissions reductions associated with the corresponding regulatory requirements. For that reason alone, Petitioners' claims of significant emissions consequences are illusory.

For all these reasons, the Court should uphold EPA's narrow action to extend a handful of compliance deadlines (among hundreds) in the Final Extensions Rule.

## ARGUMENT

### I. The Text of Section 111 Does Not Expressly Require EPA to Consider Possible Emissions Consequences in Delaying Compliance Deadlines.

Petitioners' core argument is that Section 111 expressly requires EPA to "consider emissions impacts when amending Section 111 deadlines." Pet. Br. at 21. Petitioners argue that EPA "fail[ed] to comply with the requirements of the statutory authority it invoked." *Id.* But Petitioners do not identify any statutory text that contains this requirement. Indeed, in the Opening Brief, Petitioners all but ignore the text of Section 111, citing the statutory language only a handful of times—and only for background purposes. *See* Pet. Br. at 3, 4, 5, 26. That is not surprising because Section 111 does not contain the express requirement that Petitioners claim. For that reason alone, this Petition should be dismissed.[6] *See New York v. EPA*, 921 F.3d 257,

[6] In its Motion for Summary Vacatur, Petitioners vaguely asserted that Section 111's "focus on 'limitation' and 'reduction' of 'emissions'" "affirm that the statute

262 (D.C. Cir. 2019) (rejecting challenge to EPA action because petitioners "identify nothing in the text of" the Clean Air Act to support their argument that EPA had a mandatory duty to act).

Petitioners seek to prop up their claim that Section 111 expressly requires an emissions analysis by pointing to *American Lung Association v. EPA*, 985 F.3d 914 (D.C. Cir. 2021), *rev'd on other grounds sub nom. West Virginia v. EPA*, 597 U.S. 697 (2022). *See* Pet. Br. at 15, 21–24. But *American Lung* was not decided on statutory grounds and thus does not support Petitioners' view of Section 111. Rather, the Court there held that the "challenged regulations lack reasoned support"—*i.e.*, are arbitrary and capricious. *American Lung*, 985 F.3d at 991. Petitioners thus fundamentally misconstrue *American Lung*.

Nor does *American Lung* support Petitioners' claim that the Final Extensions Rule is arbitrary and capricious. Unlike the extensions at issue in this case, which apply to a narrow subset of section 111 standards for a *single* source category, *American Lung* involved extensions to deadlines in EPA's so-called "framework regulations" applicable to *all* present and future emission standards under Section 111(d), including extensions to "the time allowed for States to submit their [section

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requires EPA to incorporate the amount of air pollution as a relevant factor to be weighed." Doc. No. 2151923 at 2 (quoting *Sierra Club v. Costle*, 657 F.2d 298, 326 (D.C. Cir. 1981)). But Petitioners abandon that argument here, thus conceding that nothing in the text of Section 111 supports their statutory argument.

111(d)(1)] plans. *Id.* at 991, 993 (contrasting the "generally applicable" rules at issue in *American Lung* with standards of performance under section 111 that apply "only to a single category of source").

In finding those framework regulations arbitrary and capricious, the Court in *American Lung* emphasized that EPA had made "no showing of need" to justify the compliance deadlines extensions at issue. *Id.* at 994. Rather, EPA implemented the extensions to align the deadlines for Section 111(d) standards with those for National Ambient Air Quality Standards under a separate provision of the Clean Air Act—a justification the Court dismissed as inadequate because EPA failed to address the different scales of these two types of plans. *Id.* at 992–94. Against the backdrop of these "weak grounds for routinizing additional compliance delays," the Court found it arbitrary that EPA had displayed a "total disregard of the added environmental and public health damages likely to result from slowing down the entire Section [111(d)] regulatory process." *Id.* at 993.

None of those grounds applies here. The OOOOb portion of the Final Extensions Rule extends eight compliance deadlines out of hundreds in the 2024 OOOOb Rule; it does not make sweeping changes that affect every Section 111(d) standard that EPA promulgates in the future across source categories. *See supra* at 9. Here, EPA demonstrated a need for the extensions—the infeasibility of meeting the original deadlines due to unanticipated, exogenous factors. *See infra* at 19-23.

EPA addressed the possible emissions consequences of the extensions, both in the Final Extensions Rule itself and in the underlying economic impact analysis. *See supra* at 10. And EPA found them "immaterial." *See supra* at 10. *American Lung* has no bearing on this case.

## II. EPA Considered the Possible Emissions Consequences of the Final Extensions Rule.

The administrative record demonstrates that EPA adequately considered the possible emissions consequences of the OOOOb compliance schedule extensions.

### A. EPA Considered Emissions in Extending the OOOOb Deadlines.

Petitioners' Brief rests on the easily disprovable assertion that EPA failed to "make[] any mention of the climate or health harms associated with the pollutants the 2024 Rule sought to mitigate." Pet. Br. at 21–22.

First, EPA expressly stated that the "emissions impacts" of the Interim Final Rule, which the Final Extensions Rule reaffirmed, "were considered and the EPA determined that the extensions were warranted given those impacts." JA1987[RTC 13]; *see Clean Water Action v. EPA*, 936 F.3d 308, 315 (5th Cir. 2019) (recognizing that earlier findings may be "incorporated in the administrative record for . . . a follow-on rulemaking"). EPA likewise made clear that it had relied upon the prior 2024 RIA prepared for the 2024 Rule to inform the impact analysis of the Final Extensions Rule. JA2008[RTC 34]. These conclusions are consistent with the fact that several of the OOOOb extensions concern monitoring, inspection, and assurance

requirements, rather than emissions control standards – which remain effective (*see, e.g.*, 90 Fed. Reg. at 55675–76), as well as the short-term nature of these extensions, the last of which expire in January of 2027.

Second, EPA responded in detail to comments concerning the possible emissions consequences of individual extensions, including those submitted by Petitioners. For example, with respect to the 12-month extension of the compliance date for "no identifiable emissions" inspections for covers and closed vent systems, EPA explained that various other design, inspection, and maintenance requirements that "remain in place and are not being extended[] achieve the emission-reduction goals of the 2024 final rule." 90 Fed. Reg. at 55676. Similarly, with respect to the extension of the phase 2 standard for process controllers, EPA acknowledged comments warning of "emissions increases … from delayed compliance," but explained that its phase 1 interim standard that remained in effect "achieves emission reductions even compared to the pre-[2024 Rule]baseline." *Id.* at 55677. Petitioners fail to acknowledge these explanations, let alone show they are unreasonable.

Ignoring EPA's statements in the administrative record, Petitioners claim that EPA "makes no attempt to weigh" the interests of the regulated industry "against environmental and health harms" that would result from the Final Extensions Rule. Pet. Br. at 21–22. But EPA explained that it could not quantify foregone emissions reductions from certain OOOOb extensions due to insufficient data on most of the

specific OOOOb standards to which the extensions apply, as the iterative "applicability and compliance assurance" extensions represented only a fraction of the estimated emissions reductions from the 2024 RIA. *See* JA0784[Interim Final Rule EIA 2]; JA2008[RTC 34] (EPA explaining that "ozone health benefits were not quantified in the memo because the [2024 RIA] analysis for the 2024 Final Rule considered the NSPS OOOOb and EG OOOOc jointly, whereas the [Interim Final Rule] only impacts the EG OOOOc in the years analyzed in the memo (2028–2039)"). In other words, the 2024 RIA for the original 2024 Rule did not collect data or evaluate emissions in a way that would allow EPA to now meaningfully estimate how extending a small number of mostly monitoring or testing deadlines for twelve to eighteen months may impact projected emissions reductions that are still otherwise being realized because the corresponding emissions standards were not deferred and currently are being implemented. Petitioners' failure to acknowledge this explanation, let alone refute it, forecloses their claim that EPA acted arbitrarily. In any event, the resulting lack of data does not prevent EPA from making reasonable, and indeed necessary, compliance schedule adjustments to a handful of standards (out of dozens). *Cf. NRDC v. SEC*, 606 F.2d 1031, 1059 (D.C. Cir. 1979) ("The absence of firm data [does] not preclude the [agency] from adopting or declining to adopt rules.").

Petitioners also fail to identify any data in the administrative record that EPA supposedly ignored. Nor did Petitioners submit emissions data that would undermine EPA's conclusions, despite having opportunity to do so in the comment period. Additionally, EPA did not take the position that "only industry interests matter when delaying implementation." *Contra* Pet. Br. at 24. Rather, EPA explained that the OOOOb extensions are expected to have "no material impact" on emissions given that they either apply to "narrow provisions" or are otherwise "very small." JA0783-0784[Interim Final Rule EIA at 1–2]. Further, Petitioners do not meaningfully contest EPA's feasibility conclusions, essentially conceding that the emissions benefits of the 2024 Rule would not have been realized in the first instance, e.g., due to possible widespread noncompliance with the original infeasible compliance deadline for the 2024 Rule's "no identifiable emissions" deadline applicable to certain equipment. *See* 90 Fed. Reg. at 35972-73.

Petitioners' remaining criticisms, such as that EPA "arbitrarily failed to monetize the consequent ozone and climate harms," equally fall short. Pet. Br. at 27. EPA, in responding to comments, explained that Executive Order 14154 requires agencies to limit their consideration of greenhouse-gas emissions ("GHG") to "the minimum consideration required to meet" statutory requirements and "not to monetize" the impacts of GHG emissions "because the uncertainties in performing monetized impacts quantifications are too great." JA2009[RTC 35].

EPA considered the potential emissions impacts of the Final Extensions Rule and found the resulting impacts to be reasonable given credible information in the record that the compliance deadlines for a small number of the standards in the 2024 Rule could not be met and should be extended for a short period of time.

### B. EPA's Disclaimer of the Interim Final Rule EIA Does Not Mean EPA Failed to Consider Potential Emissions Impacts.

While EPA disclaims reliance on the Interim Final Rule EIA, this does not mean that EPA failed to consider the environmental impacts of the Final Extensions Rule. First, as discussed in Section II.A., *supra*, EPA adequately considered emissions impacts. Second, EPA expressly states that it *did* rely on the 2024 RIA conducted for the 2024 Rule "to inform the impacts analysis of" the Interim Final Rule, concluding that the "NSPS-related impacts of the" Interim Final Rule would "represent a small percentage of the total estimated impacts of the [Interim Final Rule]." JA2008[RTC at 34]. EPA looked at the potential emissions impacts of the Final Extensions Rule, concluded that the technical feasibility issues outweighed those "small" impacts, and found that no public comments provided "sufficient information to show a different course of action would be appropriate". 90 Fed. Reg. at 55675. Petitioners do not counter this conclusion, the record does not support their arguments, and their claims that EPA ignored potential emissions impacts thus fail.

Instead of pointing to record comments that indicated there would be possible emissions consequences from the Final Extensions Rule, Petitioners dedicate several pages to attacking EPA's reasoning in the Interim Final Rule EIA despite acknowledging that EPA expressly disclaimed and did not rely on that document. Pet. Br. at 24-29.[7] Unable to find a flaw in EPA's actual stated analysis and basis for the Final Extensions Rule, Petitioners instead attack a document they admit the Court cannot consider. Pet. Br. at 24 (citing *Michigan v. EPA*, 576 U.S. 743, 760 (2015)).

However, whether the Interim Final Rule EIA adequately assessed the possible emissions consequences of the Final Extensions Rule is not the question before the Court. Instead, the question is whether EPA adequately considered possible emissions consequences (it did), and whether there is any contradictory evidence in the record for the Final Extensions Rule indicated EPA overlooked emissions consequences (Petitioners point to none). EPA's determination that the Final Extensions Rule was warranted therefore should be upheld.

[7] In any event, Industry Intervenors dispute Petitioners' arguments that the Interim Final Rule EIA did not independently adequately consider possible emissions impacts. The Interim Final Rule EIA expressly relied on the 2024 Rule RIA, and used the emissions estimates from the 2024 Rule RIA to inform its conclusion that the possible emissions consequences of the Final Extensions Rule were minimal. JA0784-0785[Interim Final Rule EIA at 2–3]. Petitioners cannot both rely on the emissions analyses contained in the 2024 Rule RIA and disclaim EPA's similar reliance on the same.

### C. Petitioners Fail to Address EPA's Conclusions that the Deadlines Were Infeasible.

EPA provided a reasoned justification for each of the short compliance date extensions in the Final Extensions Rule. EPA Br. at 29–44; *see also* 90 Fed. Reg. at 55675 (EPA concluding NHV monitoring requirements were "infeasible" due to "supply chain, personnel, and laboratory limitations identified by stakeholders"); *id.* at 55677 (EPA finding that requirements for "replacement of leaking valves with low-E valves without first providing an opportunity for an attempt at repair of the existing valve is technically and economically infeasible"); JA1996[RTC at 22] (explaining "EPA's original prediction [with respect to process controllers], while based on the information available at the time, did not prove correct based on a new review of new information since promulgation of the 2024 Final Rule"); 90 Fed. Reg. at 35974 (finding there was still significant demand on the equipment, supplies, and service vendors, adding further strain to the supply chain with respect to the process controllers phase-two standard); JA2021-2022[RTC 47-48] (EPA responding to Petitioners' comments alleging that, under this Court's decision in *American Lung*, the Clean Air Act requires the Agency to weigh the public health and welfare impacts of any delay in compliance deadlines, stating "that certain discrete provisions in the final rule present immediate problems related to compliance" necessitating the extensions). Since EPA found that compliance with these specific deadlines was infeasible, any associated projected emissions

reductions were unachievable on the original schedule, undercutting Petitioners' unsupported claims about foregone environmental benefits.

Further, these infeasibility conclusions by EPA were backed by comments submitted to EPA after publication of the 2024 Rule and in comments on the Interim Final Rule. *See* JA0799–0903; 0969–1083; 1094–1161; 1765-1767; 1801–1813; 1855–1961[Comment IDs EPA-HQ-OAR-2025-0162-0035–41, 47, 48, 55, 59–61, 70, 78, 87, 88, 93, 94, 154, 155, 157, 160, 162, 164, 168, 170–172, 177, 179, 183, 184, 189–192, 234 (comments from the Domestic Energy Producers Alliance ("DEPA"); American Petroleum Institute; American Exploration and Production Council; GPA Midstream Association; Independent Petroleum Association of America, Interstate Natural Gas Association of America ("INGAA" and substantial other industry operators and associations)].

For example, DEPA's comments highlighted the various untenable compliance deadlines, providing additional factual information demonstrating why the extensions were necessary. *See* JA0895-0903(Comment ID EPA-HQ-OAR-2025-0162-0078. DEPA explained how each of the seven categories of compliance date extensions proposed in the Interim Final Rule were necessary due to the infeasibility of those requirements for DEPA's members. *Id.* at JA0895-0899. DEPA also discussed the need for the NHV testing and annual report compliance date extension adopted by EPA in the Final Extensions Rule. *Id.* at 0899-

0902. Similarly, one of DEPA's members, Continental Resources, Inc., provided even more detailed comments discussing the feasibility challenges for all nine of the compliance deadline extensions promulgated in the Final Extensions Rule. JA1124-1133(Comment ID EPA-HQ-OAR-2025-0162-0164). Other Industry Intervenors provided similar bases for extending the referenced deadlines within their comments.[8]

Based on that administrative record, EPA adequately "explained that errors in the 2024 Rule or new information showed that compliance would be significantly more difficult than expected" to justify the Final Extensions Rule. *Clean Air Council*, 181 F.4th 1292, 1299 (D.C. Cir. 2026). That was not a "blind and unexplained" acceptance of information submitted by the regulated industry (Pet. Br. at 22), but rather EPA's weighing of "credible workability concerns" raised by industry and finding that the extensions were warranted despite the (small) potential foregone emissions reductions they would entail (90 Fed. Reg. at 55676, 55675).

For example, EPA extended the compliance date for the phase 2 standard for process controllers to January 22, 2027, for the same reason it had provided a one-

[8] *See* JA0817–0884 (Comment ID EPA-HQ-OAR-2025-0162-0053 (API/AXPC) (Non-confidential replacement for EPA-HQ-OAR-2025-0162-0011); JA1084–1093 (Comment ID EPA-HQ-OAR-2025-0162-0124 (API)); JA1803–1807 (Comment ID EPA-HQ-OAR-2025-0162-0183 (AXPC)); JA1801–1802 (Comment ID EPA-HQ-OAR-2025-0162-0179 (GPA Midstream)); JA1801–1807 (Comment IDEPA-HQ-OAR-2025-0162-0184 (INGAA)).

year phase-in period for that standard in the 2024 Rule. 90 Fed. Reg. at 55677 (extending deadline "to address the supply chain and logistical issues raised by" regulated entities); *compare* 89 Fed. Reg. at 16929 (explaining basis for phase-in period in 2024 Rule). EPA found there was still significant demand on the equipment, supplies, and service vendors, adding further strain to the supply chain. 90 Fed. Reg. at 35974. Comments on the Interim Final Rule supported that conclusion. 90 Fed. Reg. at 55677.[9]

Petitioners claim EPA did not explain why it reached a different conclusion than it did in 2024. Not so. EPA explained that "EPA's original prediction, while based on the information available at the time, did not prove correct based on a new review of new information since promulgation of the 2024 Final Rule." JA1996[RTC at 22]. And EPA did acknowledge the report upon which the 2024 Rule relied. JA1979[RTC at 5] (noting comments on the Interim Final Rule from the sponsor of the report stating that it recommended a 26-month compliance deadline based on that report).

Petitioners also complain that EPA did not consider comments from technology providers or take note of a large company that was able to complete a

[9] EPA did not rely solely on information submitted by a single trade association. *Contra* Pet. Br. at 36; *see* 90 Fed. Reg. at 55677 n.27 (citing Comment ID EPA–HQ–OAR–2025–0162–0078 (DEPA)); JA1979[RTC at 5] (discussing API comments).

large number of retrofits. Similar comments were found unpersuasive in the 2024 Rule. EPA did acknowledge them here, *see* JA1989[RTC at 15] (noting EPA-HQ-OAR-2025-0162-0156, (Kathairos Comment (Oct. 1, 2025)); JA2032[RTC at 58] (noting EPA-HQ-OAR-2025-0162-0185_7] (TCS Comment (Oct. 3, 2025)), and agreed that some sources may be able to meet the original deadline. JA2032[RTC at 58]. It still made the predictive judgment, based on the evidence before it, that an overall extension was nonetheless needed. *Cf. Clean Air Council v. EPA*, 181 F.4th at 1305 (upholding extensions where EPA found that "some facilities" needed more time for compliance).

Finally, EPA's conclusion that these compliance deadlines were infeasible further erodes Petitioners' arguments about health and emissions benefits, since it would not have been possible for a large subset of operators subject to the 2024 Rule to meet the original deadlines of the 2024 Rule for the limited number of extended requirements. Thus, the claimed emissions benefits associated with these requirements were largely illusory in the first place. In other words, even accepting that the Final Extensions Rule might result in foregoing the projected emissions reductions associated with those specific requirements for 12 – 18 months, those emissions reductions would largely not have been realized regardless of the Final Extensions Rule because timely compliance would not have occurred (something

that Petitioners do not credibly contest). Hence, any alleged failure to consider emissions is harmless error.

EPA responded to real, verified compliance feasibility issues, and then correctly and justifiably extended discrete compliance deadlines for a select number of requirements so that the regulated community could transition into orderly compliance. Petitioners have not credibly contested EPA's conclusions that these deadlines were not feasible. These justifications also materially distinguish the Final Extensions Rule from the extensions at play in *American Lung*. 985 F.3d at 994 (noting EPA made "no showing of need" in extending deadlines). Because EPA considered the "environmental and public health effects of the Rule's compliance slowdown" here, the Final Extensions Rule should be upheld. *Id.* at 995.

*/s/ Paul M. Seby*
Paul M. Seby
Christopher L. Bell
Matthew K. Tieslau
Greenberg Traurig, LLP
1144 15th Street, Suite 3300
Denver, CO 80202
Telephone: (303) 572-6584
Fax: (303) 572-6540
sebyp@gtlaw.com
bellc@gtlaw.com
tieslaum@gtlaw.com

*Counsel for Domestic Energy Producers Alliance*

*/s/ Samuel B. Boxerman*
Samuel B. Boxerman
Daniel J. Feith
SIDLEY AUSTIN LLP
1501 K Street, NW
Washington, DC 20005
Phone: 202-736-8000
Email: sboxerman@sidley.com
dfeith@sidley.com

*Counsel for GPA Midstream Association*

*/s/ William L. Wehrum, Jr.*

*/s/ John H. Bernetich*
Jennifer L. Biever
John H. Bernetich
Clay Taylor
WILLIAMS WEESE PEPPLE & FERGUSON PC
1801 California Street, Suite 3400
Denver, CO 80202
Phone: 303-861-2828
Fax: 303-861-4017
Email: jbiever@williamsweese.com
jbernetich@williamsweese.com
ctaylor@williamsweese.com

*Counsel for American Exploration & Production Council*

*/s/ Allison D. Wood*

Allison D. Wood
Makram B. Jaber
Andrew D. Knudsen
MCGUIRE WOODS LLP
888 16th Street, NW, Suite 500
Washington, DC 20006
Phone: 202-857-1700
Email: awood@mcguirewoods.com
mjaber@mcguirewoods.com
aknudsen@mcguirewoods.com

*Counsel for Interstate Natural Gas Association of America*

*/s/ James D. Elliott*
James D. Elliott
E THREE LAW, PLLC
2750 Pilgrim Road
York, PA 17406
Phone: 202-361-8215

William L. Wehrum, Jr.
WEHRUM ENVIRONMENTAL LAW LLC
1629 K Street, NW, Suite 300
Washington, DC 20006
Phone: 302-300-0388
Email:
William_Wehrum@comcast.net

John P. Wagner
AMERICAN PETROLEUM INSTITUTE
200 Massachusetts Ave., NW
Washington, DC 20001
Phone: 202-682-8000
Email: Wagner@api.org

*Counsel for American Petroleum Institute*

Email: jim@e-threelaw.com

*Counsel for Independent Petroleum Association of America, Arkansas Producer Associations and Royalty Owners, Eastern Kansas Oil & Gas Association, Gas and Oil Association of WV, Illinois Oil & Gas Association, Indiana Oil and Gas Association, International Association of Drilling Contractors, Kansas Independent Oil & Gas Association, Kentucky Oil and Gas Association, Michigan Oil and Gas Association, National Stripper Well Association, North Dakota Petroleum Council, Ohio Oil and Gas Association, Pennsylvania Independent Oil & Gas Association, Petroleum Alliance of Oklahoma, Texas Alliance of Energy Producers, Texas Producer Associations & Royalty Owners Association, Western Energy Alliance*

## CERTIFICATE OF COMPLIANCE

This brief complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

This brief complies with the word-count limitation of Federal Rule of Appellate Procedure 32(e) because it contains 5,605 words, not counting the parts excluded by Federal Rule of Appellate Procedure 32(f) and Circuit Rule 32(e)(1).

/s/ James D. Elliott
James D. Elliott

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing will be served, this 1st day of September 2026, through the Court's CM/ECF system on all registered counsel.

/s/ James D. Elliott
James D. Elliott



v.